

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Daniel J. Andres,

Case No. 3:16 CV 991

Plaintiff,

ORDER AFFIRMING
DENIAL OF BENEFITS

-vs-

JUDGE JACK ZOUHARY

Commissioner of Social Security,

Defendant.

Plaintiff Daniel Andres timely filed a Complaint (Doc. 1) against the Commissioner of Social Security, seeking judicial review of the Commissioner's decision to deny his disability insurance benefits. This Court has jurisdiction under 42 U.S.C. § 405(g), and this case was referred to Magistrate Judge James Knepp for a Report and Recommendation ("R&R") under Local Rule 72.2(b)(1). Following briefing (Docs. 16, 18–19), the Magistrate Judge issued an R&R (Doc. 20), recommending this Court affirm the final decision of the Commissioner. The matter is now before this Court on Andres' Objection to the R&R (Doc. 22) and Defendant's Response (Doc. 23).

As an initial matter, Andres' Objection does not comply either with this Court's Order governing objections (Doc. 21) or Local Rule 72.3. Indeed, Andres' brief far exceeds the ten-page limit specified in the Order, and it fails to enumerate or identify any objections to *specific* parts of the R&R. Rather, Andres merely re-filed his Brief on the Merits (Doc. 16), with minimal modifications, and re-asserts all the arguments rejected by the Magistrate Judge.

Nevertheless, this Court has reviewed the Magistrate Judge's findings *de novo*, in accordance with *Hill v. Duriron Co.*, 656 F.2d 1208 (6th Cir. 1981) and 28 U.S.C. § 636(b)(1)(B) & (C), including a review of the administrative record and the hearing before the ALJ.

Because the R&R accurately discusses record facts and correctly applies the law to Andres' claim, this Court adopts the R&R in full and rejects Andres' re-raised arguments for the reasons provided in the R&R. Specifically, this Court agrees that: (1) the ALJ did not err in its treatment of Dr. Kanney's opinions; (2) the ALJ did not err in its treatment of temporary and vague restrictions or by failing to link adjacent time periods; (3) Andres did not satisfy his burden of showing a "substantial question" as to whether he meets the requirements of Listing 1.04A (regardless of the ALJ's interpretation of that provision); and (4) the ALJ's analysis of Dr. Shamberg's opinion is supported by substantial evidence. In sum, despite repeated requests throughout Andres' brief, remand is not in order.

This Court therefore denies the Objection (Doc. 22) and adopts the R&R (Doc. 20).

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

August 10, 2017